



## DELTA STEWARDSHIP COUNCIL

*A California State Agency*

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August 30, 2016

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Claudia Gemberling, Environmental Analyst II  
Contra Costa County  
Public Works Department  
255 Glacier Drive  
Martinez, CA 94553  
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**RE: Three Creeks Parkway Restoration Project Initial Study and Mitigated Negative Declaration, SCH# 2016082008**

Dear Ms. Gemberling:

We appreciate the opportunity to comment on the Initial Study and Mitigated Negative Declaration (MND) for the Three Creeks Parkway Restoration Project (hereafter referred to as the "Parkway Project"). The non-profit American Rivers and the Contra Costa County Flood Control and Water Conservation District will implement a project in the City of Brentwood to restore approximately 4,000 linear feet of Marsh Creek and adjacent floodplain and riparian habitat.

As you may know, the Delta Stewardship Council (Council) through the Delta Reform Act was granted specific regulatory and appellate authority over certain actions that take place in whole or in part in the Delta and Suisun Marsh; the Council exercises this authority through the development and implementation of the Delta Plan. The Delta Plan applies a common sense approach based on the best available science to achieve the coequal goals of protecting and enhancing the Delta ecosystem and providing for a more reliable water supply for California, while protecting and enhancing the unique cultural, recreational, and agricultural values of the Delta as an evolving place.

According to the Delta Reform Act, it is the state or local agency approving, funding, or carrying out the project that must determine if that project is a "covered action" subject to Delta Plan regulations, and if so, to file a certification of consistency with the Delta Plan.

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*"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."*

– CA Water Code §85054

## **Delta Plan Policies**

The Delta Plan includes 14 regulatory policies that are applicable to all covered actions. Below we have highlighted a few key regulatory policies from the Delta Plan that may be relevant to the Parkway Project.

### **Best Available Science and Adaptive Management**

Delta Plan Policy **G P1** (23 California Code of Regulations [CCR] Section 5002) calls for covered actions to document use of best available science. This documentation should be consistent with the criteria listed in Appendix 1A of the Delta Plan regulations (available at <http://deltacouncil.ca.gov/docs/appendix-1a>), which include relevance, inclusiveness, and objectivity.

Additionally, Policy **G P1** calls for ecosystem restoration projects to include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action; this requirement can be satisfied through the development of an adaptive management plan that is consistent with the framework described in Appendix 1B of the Delta Plan (<http://deltacouncil.ca.gov/docs/appendix-1b>), along with documentation of adequate resources to implement the proposed adaptive management process.

Staff from the Delta Science Program can provide consultation to assist in preparation of documentation of use of best available science and adaptive management. Please contact Darcy Austin ([darcy.austin@deltacouncil.ca.gov](mailto:darcy.austin@deltacouncil.ca.gov)) of the Delta Science Program to arrange those discussions.

### **Mitigation Measures**

Delta Plan Policy **G P1** (23 CCR Section 5002) also requires that actions not exempt from the California Environmental Quality Act (CEQA) and subject to Delta Plan regulations must include applicable feasible mitigation measures consistent with those identified in the Delta Plan Program Environmental Impact Report (PEIR) or substitute mitigation measures that are equally or more effective. The Delta Plan Mitigation and Monitoring Reporting Program is to be used to ensure compliance with the Delta Plan mitigation measures and this document is available at [http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a\\_attach%202.pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%206a_attach%202.pdf)

Council staff can provide a slightly reformatted Microsoft Word document version of the MMRP document which may help Contra Costa County staff with the process of cross-referencing between Delta Plan mitigation measures with those in the project's MND.

## Habitat Restoration

Delta Plan Policy **ER P2** (23 CCR Section 5006) states that habitat restoration must occur at appropriate elevations and be consistent with Appendix 3 of the Delta Plan regulations, which is an excerpt from the 2011 Draft Ecosystem Restoration Program Conservation Strategy. Appendix 3 describes the many ecosystem benefits related to restoring floodplains, however it also cautions that such restoration should include investigation and implementation of Best Management Practices (BMPs) to control methylmercury production and transport since periodic wetting and drying makes these areas prone to methylation of mercury. Marsh Creek is currently cited as exceeding water quality standards for mercury on the Central Valley Regional Water Quality Control Board's 303(d) list of impaired water bodies, making management of mercury issues relevant to the Parkway Project. We recommend that the MND specifically address the potential impact of the project to contribute to methylation of legacy mercury in the Marsh Creek watershed and explain how the project either is designed to minimize this impact or includes appropriate mercury related BMPs.

## Invasive Species

Delta Plan Policy **ER P5** (23 CCR Section 5009) states, "The potential for new introductions of or improved habitat conditions for nonnative invasive species, striped bass, or bass must be fully considered and avoided or mitigated in a way that appropriately protects the ecosystem." Nonnative species, such as terrestrial and aquatic weeds, are a major obstacle to successful restoration because they affect the survival, health, and distribution of native wildlife and plant species. Although there is little chance of eradicating most established nonnative species, management can be designed to reduce their abundance.

We suggest you consider incorporating into the MND Delta Plan PEIR's **Biological Resources Mitigation Measure 4-1** which calls for an invasive species management plan to be developed and implemented for any projects that could lead to introduction or facilitation of invasive species establishment. The plan must ensure that invasive plant species and populations are kept below preconstruction abundance and distribution levels and be based on best available science and developed in consultation with Department of Fish and Wildlife and local experts (e.g., UC Davis, California Invasive Plant Council). This mitigation requirement also calls for the plan to include the following elements:

- Nonnative species eradication methods (if eradication is feasible)
- Nonnative species management methods
- Early detection methods
- Notification requirements
- Best management practices for preconstruction, construction, and post construction periods
- Monitoring, remedial actions and reporting requirements

- Provisions for updating the target species list over the lifetime of the project as new invasive species become potential threats to the integrity of the local ecosystems

## **Respect Local Land Use**

Delta Plan Policy **DP P2** (23 CCR Section 5011) calls for habitat restoration projects to avoid or reduce conflicts with existing uses and to consider comments from local agencies and the Delta Protection Commission. The MND states that the project is consistent with the City of Brentwood General Plan and would not affect any land use of adjoining parcels to the project area, which is primarily designated residential. The MND also describes how the Parkway Project would protect East Bay Regional Park District's Marsh Creek trail by relocating it to new top of the eastern bank under the proposed project.

## **Inconsistencies with the Delta Plan**

The MND should discuss any inconsistencies between the proposed plan and the Delta Plan, as required by section 15125(d) of the CEQA Guidelines. Please note that the CEQA guidelines' Appendix G states that a project that is inconsistent with any applicable land use plan, policy, or regulations may result in a finding of significant impact on the environment.

## **Delta Plan Recommendations**

The Delta Plan contains 74 recommendations, which we encourage project proponents to consider as they design and implement their projects and programs. Although these recommendations are non-regulatory in nature, progress towards their implementation will help with achieving the coequal goals in a manner that protects and enhances the unique values of the Delta.

### *Protect and Enhance Recreational Opportunities*

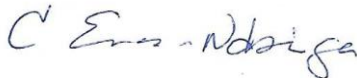
The Delta Plan recommends protecting and improving existing recreation opportunities while seeking ways of providing new and better coordinated opportunities. Delta Plan Recommendation **DP R11** calls for providing new and protecting existing recreational opportunities in the Delta and Suisun Marsh. Additionally, Recommendation **DP R16** states that public agencies owning land should increase opportunities, where feasible, for bank fishing, hunting, levee-top trails, and environmental education. We appreciate how the MND describes how the project would relocate the Marsh Creek trail and how the lower 1,600 feet of the project would be integrated into a new city park and include interpretive signs.

Claudia Gemberling, Environmental Analyst II  
Contra Costa County  
Public Works Department  
August 30, 2016  
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## Final Remarks

Overall we support Contra Costa County and American Rivers in this initiative to restore habitat along a stretch of urbanized creek in the City of Brentwood. We look forward to working with County staff on this project and, if necessary, provide early consultation to County staff on the requirements of filing a Delta Plan certification of consistency. I encourage you to contact Daniel Huang at [Daniel.Huang@deltacouncil.ca.gov](mailto:Daniel.Huang@deltacouncil.ca.gov) for any questions you have regarding issues raised in this comment letter.

Sincerely,

A handwritten signature in blue ink that reads "C Enos-Nobriga". The signature is written in a cursive, flowing style.

Cassandra Enos-Nobriga  
Deputy Executive Officer  
Delta Stewardship Council